

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
**WASHINGTON, DC 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Rules Related	)	MB Docket No. 10-71
to Retranmission Consent	)	
	)	

**REPLY COMMENTS OF MEDIA ACCESS PROJECT**

Media Access Project (MAP) respectfully submits the following brief reply comments in response to the Commission's NPRM with respect to retransmission consent. MAP wishes to make two points.

First, while MAP largely agrees with the positions advanced in this docket by the various MVPDs, the extensive back and forth between broadcasters and MVPDs creates a false impression that this proceeding is little more than a spat between two interests groups seeking leverage in dealing with private contractual disputes. There is such a dispute, but the Commission should not lose sight of the fact that the viewing public is the intended beneficiary of the system of must-carry and retransmission consent adopted by Congress in the 1992 Cable Act. It is not in the public's interest for broadcasters to use their access to exclusive spectrum licenses to increase the cost of programming, and thus to increase the cost to the public. Nor is it in the public's interest for programming to be withheld, even temporarily, while broadcasters and MVPDs engage in games of contractual "chicken." Thus, MAP asks that the Commission use its authority to eliminate as many obstacles as possible to the prompt resolution of retransmission disputes.

Second, MAP notes that the American Cable Association (ACA) and other MVPD commenters have shown that so-called "Shared Service Agreements," "Joint Sales Agreements," "Local Marketing Agreements" and other arrangements described in paragraph 23 of the NPRM have been abused to create what amount to duopolies and triopolies, which stretch or even violate Commission

ownership rules. It may be, as Sinclair Broadcast Group says at page 24 of its comments, that some of these arrangements are “consistent with law and FCC rules,” but it also seems to be the case that other such agreements are ***not*** consonant with FCC rules and policies. More importantly, the issue here is not whether existing law and policy permits some of these combinations, and rather, whether they are being abused to the detriment of the public interest. Because of the Commission’s studied indifference to SSAs, JSAs and LMAs, there is no official data that even confirms the prevalence of these arrangements. However, ACA has demonstrated that there are many of these combinations, and that their number is increasing. It is unfortunate that the Commission appears to have acquiesced in the creation of some of these arrangements, but the record in this case gives strong reason for the Commission to address these circumstances more forthrightly.

### **CONCLUSION**

Wherefore, MAP asks that the Commission adopt rules that stop the misuse of retransmission consent proceedings to injure the viewing public, and grant all such other relief as may be just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew Jay Schwartzman".

Andrew Jay Schwartzman  
Senior Vice President and Policy Director

June 27, 2011